

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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NORTH ATLANTIC OPERATING  
COMPANY, INC., NATIONAL  
TOBACCO COMPANY, L.P.,

Plaintiffs,

vs.

WALTER C SCOTT, et al.,

Defendants.

4:16-CV-12076-TGB

DEFAULT JUDGMENT

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In accordance with the Opinion and Order (Dkt. 118) entered on  
September 28, 2018:

A. North Atlantic Operating Company's Motion for Default  
Judgment and Related Relief is **GRANTED**;

B. Default Judgment, pursuant to Federal Rule of Civil  
Procedure 55(b)(2) and Local Rule 55.2, is hereby entered against the  
following groups of "Non-Responding Defendants" for each and all of the  
Counts alleged in North Atlantic's Complaint in the amount of **\$200,000**,  
jointly and severally per group of Non-Responding Defendants ((a) – (i),  
below), for a total statutory damages award of **\$1,800,000** under the

Lanham Act (15 U.S.C. § 1117(c)) against the following “Non-Responding Defendants”:

- a) Defendants Walter C. Scott and eBay Seller respect843;
- b) Defendants Mohammad Akbar, eBay Seller zigzag\_wholesale, eBay Seller atlantic\_market, and eBay Seller smwholesale360;
- c) Defendants Harold L. Thompson, HFOco Network Services, and eBay Seller publisherpete;
- d) Defendants James Cleary, and eBay Seller iluvmoney1232012;
- e) Defendants Burtin/Burton Parker, River City Depot, and eBay Seller cheepstuff65;
- f) Defendants Nicless Cigarette Filters, and eBay Seller usbigdiscountwarehouse;
- g) Defendants Amazon Seller kennyskorner;
- h) Defendants Jose Adrian, Amazon Seller Express Deals Corp., and Fast World Closeout; and,
- i) Defendant Rakuten Seller Granpawenterprise;

C. In addition to the above, North Atlantic Operating Company is also awarded its reasonable attorneys’ fees, costs, and investigative fees in the above-listed amounts, pursuant to the Lanham Act (15 U.S.C. § 1117) and Copyright Act (17 U.S.C. § 505):

D. The Non-Responding Defendants, and their officers, agents, servants, employees, and attorneys, and all those in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, are forever enjoined and restrained from, directly or indirectly, anywhere in the world:

- a) Importing, shipping, manufacturing, delivering, advertising, promoting, making, purchasing, offering for

sale, selling, distributing, or otherwise disposing of, in any manner, any counterfeit or infringing ZIG-ZAG® brand cigarette paper products, including but not limited to ZIG-ZAG® 1 ¼ Size French Orange cigarette paper products (“ZIG-ZAG® Orange”), or any cigarette paper products bearing:

- i. Infringing or counterfeit versions of the ZIG-ZAG® Trademarks,<sup>1</sup> the NAOC® Trademarks,<sup>2</sup> the NAOC© Copyright,<sup>3</sup> and/or the ZIG-ZAG® Orange Trade Dress,<sup>4</sup> which appear alone or in combination on all cases, cartons, and booklets of ZIG-ZAG® Orange cigarette paper products distributed by North Atlantic in the United States; or

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<sup>1</sup> Defined as the marks of U.S. Registration Nos. 610,530 (ZIG-ZAG (stylized)); 1,127,946 (ZIG-ZAG (Word Mark)); 2,169,540 (Smoking Man Design (Circle Border)); 2,169,549 (Smoking Man Design (No Border)).

<sup>2</sup> Defined as the marks of U.S. Registration Nos. 2,664,694 and 2,664,695 (NORTH ATLANTIC OPERATING COMPANY INC. and Gear Design); and 2,610,473 and 2,635,446 (NORTH ATLANTIC OPERATING COMPANY (Word Mark)).

<sup>3</sup> Defined as the work of the federal copyright registration for the visual material/computer graphic titled “North Atlantic Operating Company, Inc.” (VAu 464-855).

<sup>4</sup> Defined as the distinctive design elements comprising the overall look and feel of ZIG-ZAG® Orange packaging (booklets and cartons), including at least the following: (1) ZIG-ZAG® and NAOC® Trademarks, (2) NAOC© Copyright, (3) gold-fill lettering and design elements, (4) French phrases such as “Qualite Superieure” and “Braunstein Freres France,” and (5) the express statements that the products are “Made in France” or “Imported French”, or “Distributed by North Atlantic Operating Company, Inc.”

- ii. The false statement that such products are “Distributed by North Atlantic Operating Company, Inc.”, or otherwise under North Atlantic’s supervision or control, when they are not;
- b. Importing, shipping, manufacturing, distributing, delivering, advertising, promoting, making, purchasing, offering for sale, selling, passing off, distributing, or otherwise disposing of, in any manner, any purported North Atlantic products that are not actually produced, imported, or distributed under North Atlantic’s supervision or control, or approved for sale by North Atlantic in the United States in connection with the ZIG-ZAG® or NAOC® Trademarks, the NAOC© Copyright, or the ZIG-ZAG® Orange Trade Dress, or inducing or enabling others to commit any of the aforesaid acts;
- c. Committing any acts calculated to cause purchasers to believe that counterfeit or infringing ZIG-ZAG® cigarette paper products, including ZIG-ZAG® Orange, originate with North Atlantic when they do not;
- d. In any way infringing or damaging the ZIG-ZAG® or NAOC® Trademarks, the NAOC© Copyright, or the ZIG-ZAG® Orange Trade Dress;

- e. Forming or causing to be formed any corporation or other entity that engages in any of the above-described acts ((a) – (e)); and
- f. Attempting, causing, or assisting in any of the above-described acts ((a) – (f)), including but not limited to enabling others in the above-described acts or passing on information to allow them to do so.

DATED this 28th day of September, 2018.

BY THE COURT:

/s/Terrence G. Berg

TERRENCE G. BERG

United States District Judge

DAVID J. WEAVER

CLERK OF THE COURT

/s/A. Chubb

DEPUTY CLERK